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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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7 STATE OF OHIO,
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Plaintiff,
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v.
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DEANDE L. BELMON,
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Defendants.
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Case No. 2:22-cv-00897-RFB-VCF

ORDER

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14 Before the Court for consideration is the Report and Recommendation (ECF No. 5) of the
15 Honorable Cam Ferenbach, United States Magistrate Judge, entered on June 24, 2022. A district
16 court “may accept, reject, or modify, in whole or in part, the findings or recommendations made
17 by the magistrate.” 28 U.S.C. § 636(b)(1). A party may file specific written objections to the
18 findings and recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Local Rule IB 3-2(a).
19 When written objections have been filed, the district court is required to “make a de novo
20 determination of those portions of the report or specified proposed findings or recommendations
21 to which objection is made.” 28 U.S.C. § 636(b)(1); see also Local Rule IB 3-2(b). Pursuant to
22 Local Rule IB 3-2(a), objections were due by July 8, 2022. Defendant Belmon filed the Objection
23 on July 8, 2022. ECF No. 6.

24 In this case, the Magistrate Judge’s Report and Recommendation recommends remanding
25 the case to state court. The Magistrate Judge concluded that Defendant Belmon failed to show that
26 this court has jurisdiction over his claim. The Magistrate Judge reviewed the notice of removal
27 and attached citations and found that Defendant’s state court action(s) all pertain to misdemeanor
28 traffic-related citations in Ohio. The Magistrate Judge also noted that Defendant Belmon lists a

1 Las Vegas address “c/o” as his address on this docket, but all the citations list his address as being
2 in Ohio. Based on these factual findings, the Magistrate Judge sua sponte determined that removal
3 is improper as there was no federal question or diversity jurisdiction warranting removal under 28
4 U.S.C. § 1441.

5 Defendant Belmon filed an Objection to the Magistrate Judge’s Report and
6 Recommendation on July 8, 2022. The Objection states that Defendant is an English subject, heir,
7 and member of The Third Temple English Church of England and has therefore established
8 diversity. In support of this, Defendant references Articles of Incorporation that he and three other
9 individuals signed, which appear to have established the nonprofit, The Third Temple English
10 Church of England.

11 The Court has reviewed the notice of removal and attached citations and agrees with the
12 Magistrate Judge’s Report and Recommendation to remand the case as it was removed in the
13 wrong jurisdiction and Defendant has not established either diversity or federal jurisdiction.

14 Under 28 U.S.C. § 1455(a), “A defendant or defendants desiring to remove any criminal
15 prosecution from a State court shall file in the district court of the United States for the district and
16 division within which such prosecution is pending a notice of removal” In other words, to the
17 extent Defendant seeks to remove his criminal case to federal court, he must do so in Ohio—not
18 the District of Nevada. It appears that Defendant intended to remove this case to the Northern
19 District of Ohio (see ECF No. 1-1 at 1) but filed his papers in the wrong court.

20 Moreover, Defendant Belmon has not met his burden in demonstrating that removal is
21 proper. Gaus v. Miles, 980 F.2d 564, 566 (9th Cir. 1992) (“Th[is] strong presumption against
22 removal jurisdiction means that the defendant always has the burden of establishing that removal
23 is proper.”). As the Magistrate Judge noted, each of the citations that Defendant attached to the
24 Complaint identify him as having an Ohio address, thus making him a citizen of the same state as
25 the Plaintiff in this case; the State of Ohio. See Exxon Mobil Corp. v. Allapattah Servs., Inc., 545
26 U.S. 546, 553 (2005) (Proper jurisdiction under Section 1332 requires complete diversity, so each
27 plaintiff must be diverse from each defendant). Defendant Belmon asserts he has provided the
28 Court with evidence of diverse citizenship, but he only provides the Articles of Incorporation of a

1 particular nonprofit. It appears these Articles of Incorporation were filed in New Jersey; however,
2 this does not establish that Defendant Belmon is a citizen of a different state or country. To the
3 extent Defendant Belmon asserts diversity jurisdiction based on the citizenship of a nonprofit
4 corporation, the Court finds that Defendant Belmon is the real party in interest in this case, and
5 therefore only his citizenship matters.

6 Finally, the Court does not find that this case raises a federal question. The case appears to
7 center on state misdemeanor citations issued by the State of Ohio against an Ohio resident.
8 Defendant cannot construct federal question jurisdiction by simply listing federal causes of action
9 unless these federal issues appear on the face of Plaintiff's well-pleaded complaint. See JustMed,
10 Inc. v. Byce, 600 F.3d 1118, 1124 (9th Cir. 2010) ("[F]ederal jurisdiction exists only when a
11 federal question is presented on the face of a properly pleaded complaint.") For all the foregoing
12 reasons, the Court adopts the recommendations of the Magistrate Judge and remands the case.

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14 **IT IS THEREFORE ORDERED** that the Report and Recommendation (ECF No. 9) is
15 **ACCEPTED** and **ADOPTED** in full.

16 **IT IS FURTHER ORDERED** that this action is **REMANDED** and closed in this District.

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19 **DATED:** January 19, 2024

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE